

**GOVERNMENT OF THE VIRGIN ISLANDS**

**PUBLIC SERVICES COMMISSION**

IN RE:	)	
	)	Order No. <u>26</u>
In the Matter of the Approval of Solar Energy Projects of the	)	PSC Docket No. 606
Virgin Islands Water and Power Authority	)	
	)	
	)	
<hr/>		

**ORDER**

This matter is before the Virgin Islands Public Services Commission (the "Commission" or the "PSC") as a result of the filing of a Petition (the "Petition") by the Virgin Islands Water and Power Authority (the "Authority" or "WAPA") on June 11, 2012, for the Commission's approval of executed Power Purchase Agreements ( the "PPAs"), six related Interconnection Agreements ("Interconnection Agreements") and the six related Preliminary Interconnection Study Agreements ("PISAs") dated as of June 4, 2012 with:

1. Lanco Virgin Islands, I, LLC ("Lanco");
2. Toshiba International Corporation ("Toshiba");
3. SunE Tutu Canopy, LLC;
4. SunE Tutu RT, LLC;
5. SunE Hogensborg, LLC; and
6. SunE Gasperi, LLC (collectively with SunE Tutu Canopy, LLC, SunE Tutu RT, LLC and SunE Hogensborg, LLC, the "Sun Edison entities").

The PPAs, the six related Interconnection Agreements and the six related PISA, each dated as of June 4, 2012, are collectively referred to herein as the "Agreements". Pursuant to the Agreements, the Authority has contracted to purchase the electric energy and other products produced by the following six solar photovoltaic (PV) electric generating facilities (the "Projects") for the Territory of the Virgin Islands:

one solar PV electric generating facility to be developed by Lanco on St. Thomas,

one solar PV electric generating facility to be developed by Toshiba on St. Croix; and

four solar PV electric generating facilities to be developed by the Sun Edison entities (two facilities on St. Thomas and two facilities on St. Croix).

The Commission has carefully reviewed the Petition and related filed documents and, having received the advice of its technical consultants, concludes that these Agreements may contribute to:

Decreasing WAPA's dependence on fuel oil and volatile fuel oil prices by utilizing solar electric generating facilities for the District of St. Thomas-St. John and the District of St. Croix; and

Potentially reducing the cost of electricity to WAPA's customers and reducing the risk of price volatility by providing a reasonably predictable amount of energy at a predictable cost over the term of the Agreements, compared to continued generation of electric energy from the Authority's existing oil-fired power plants.

**WHEREFORE, IT IS THE DETERMINATION OF THE PUBLIC SERVICES COMMISSION THAT:**

The Petition of the Authority is an outgrowth of the request for proposals ("RFP") issued by the Authority on May 18, 2011 for the purchase of electric energy from solar photovoltaic (PV) electric generation facilities on St. Croix and St. Thomas. Out of twenty-seven (27) responses to the RFP, the Authority narrowed its selection down to these Projects after extensive technical and legal review, and almost a year of extensive negotiations, which concluded on June 4, 2012, when the Authority entered into the Agreements for the Projects referenced herein subject to approval by the PSC.

**For the St. Thomas-St. John District:**

WAPA contracted with Lanco, a subsidiary of Lanco Solar International, to purchase, for a term of 20 years (with an option by WAPA to renew for an additional 5 years), the electric energy and other products from a 5 MW (DC) solar PV electric generating facility to be located at Estate Donoe on the eastern end of the island. The PPA includes an ancillary

Interconnection Agreement for the same term and a PISA for the site.

WAPA contracted with SunE Tutu Canopy, LLC, a subsidiary of Sun Edison LLC ("Sun Edison"), to purchase, for a term of 25 years, the electric energy and other products from a 2.0 MW (DC) solar PV electric generating facility to be located on a parking canopy that will be constructed in the parking lot of the Tutu Park Mall. The PPA includes an ancillary Interconnection Agreement for the same term and a PISA for the site.

WAPA contracted with SunE Tutu RT, LLC, a subsidiary of Sun Edison, to purchase, for a term of 25 years, the electric energy and other products from a 1.22 MW (DC) solar PV electric generating facility to be located on the rooftop of the Tutu Park Mall. The PPA includes an ancillary Interconnection Agreement for the same term and a PISA for the site.

**For St. Croix District:**

WAPA contracted with Toshiba to purchase, for a term of 20 years (with an option by WAPA to renew for an additional 5 years), the electric

energy and other products from a 3.924 MW (DC) solar PV electric generating facility to be located at Island Crossings Shopping Center on land adjacent to the Home Depot. The PPA includes an ancillary Interconnection Agreement for the same term and a PISA for the site. WAPA contracted with SunE Hogensborg, LLC, a subsidiary of Sun Edison, to purchase, for a term of 25 years, the electric energy and other products from a 3.31 MW (DC) solar PV electric generating facility to be located on the Hogensborg Estate. The PPA includes an ancillary Interconnection Agreement for the same term and a PISA for the site. WAPA contracted with SunE Gasperi, LLC, a subsidiary of Sun Edison, to purchase, for a term 25 years, the electric energy and other products from a 3.31 MW (DC) solar PV electric generating facility to be located on the Gasperi estate. The PPA includes an ancillary Interconnection Agreement for the same term and a PISA for the site.

The Agreements are in the interest of the ratepayers of the Authority in that they meet the objectives of the Authority's RFP to reduce the Authority's energy costs in the short term and to diversify away from total reliance on fuel oil, through the use of solar PV electric generation.

The Authority's entry into the Agreements, the incurrence of costs in accordance therewith, and the Product Prices (as defined in the PPAs) that the Authority will pay for electric energy and other products produced by the Projects as approved in this Order are reasonable.

The Commission, having reviewed the PPAs, the Interconnection Agreements, and the PISAs, hereby approves the foregoing Agreements and the Product Prices to be paid by WAPA pursuant to the Agreements , as contemplated by Section 2.3(a) of the PPAs.

The Commission approves the following recovery in full of costs and potential credits associated with the Agreements as identified in WAPA's filing:

The Product Prices to be paid to Lanco, Toshiba and the Sun Edison entities (each individually a "Seller" and collectively the "Sellers"), as identified and summarized in the PPAs shall be recovered from WAPA's ratepayers.

Credits received by WAPA from the Interconnection Agreements when the costs of WAPA's interconnection are less than originally estimated by WAPA shall be credited to ratepayers in a manner approved by the PSC. Costs above the WAPA's cap set forth as identified in the PPAs for interconnection costs payments if incurred by WAPA to keep the Agreements in place in lieu of terminating the Agreements , as permitted pursuant to Section 2.3 of the PPAs, shall not be charged to WAPA's ratepayers through the LEAC.

All financial credits, such as governmental benefits, and tax benefits, that are received by a Seller that such Seller and WAPA have agreed will be passed on to WAPA shall be provided as a credit to WAPA's ratepayers in a manner approved by the PSC.

All Test Energy as defined in the PPAs shall be charged to WAPA's ratepayers at the prices contained in the PPAs.

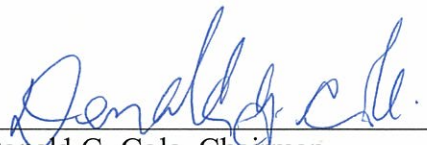
Any other cost incurred in the future, not specifically identified above shall be brought to the PSC for approval before it can be recovered in the electric rates. The PSC approves in this order the recovery of costs and potential credits identified above shall initially occur through the Levelized Energy Adjustment Clause (LEAC). If the LEAC is ever terminated or the rate structures otherwise modified, WAPA may petition the PSC for alternative rate treatment. The Commission approves the recovery of the costs identified above by the Authority for the duration of the terms of the PPAs and the Authority hereby is authorized to recover such costs in the manner approved in this order.

The Commission further approves such other action as may be necessary or reasonably requested or required to be taken by WAPA or Lanco, Toshiba or the Sun Edison entities or their respective lenders in order to give full force and effect to the Agreements, including, if required, any modification of the Projects or the Agreements not affecting the rates for the Projects. WAPA shall notify the PSC of such changes, including modifications of the Agreements, such as any changes to the milestones for commercial operation of the projects, through formal transmittals within 30 days of the execution of such modifications.

The Commission, in keeping with its power to fix electric rates, hereby affirms that the current Tariff Z permits recovery of the costs associated with the Agreements as described in paragraph 6 above.

This Order represents the full and final Order of the Commission approving the Agreements.

Dated: June 29, 2012

  
\_\_\_\_\_  
Donald G. Cole, Chairman